

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN G. PEDICINI,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

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Civil Action No. 04-12395-JLT

ORDER

March 29, 2007

TAURO, J.

After considering the parties' arguments and declarations and after a hearing held on March 1, 2007, this court hereby orders:

1. Defendants' Motion for Summary Judgment [#59] is ALLOWED IN PART AND DENIED IN PART.
 - A. Summary judgment is ALLOWED IN PART AND DENIED IN PART as to Count I (Title VII retaliation). Of the alleged retaliatory acts, the only one that survives for trial is Plaintiff's claim that Defendants stripped him of his ability to certify funds and reduced his duties.
 - B. Summary judgment is ALLOWED as to Count II, Part A (APA claims involving the No FEAR Act).
 - C. Summary judgment is DENIED WITHOUT PREJUDICE as to Count II, Part B, (APA claims involving Noncompliance with a Final Agency Order).

D. Summary judgment on Count III (violation of Due Process under the 5th Amendment) is ALLOWED.

E. Count IV (breach of contract) remains for trial.

2. Plaintiff's Cross-Motion for Summary Judgment [#64] is DENIED.

IT IS SO ORDERED.

/s/ Joseph L. Tauro
United States District Judge